



United States  
Department of  
Agriculture

Forest  
Service

May 2016

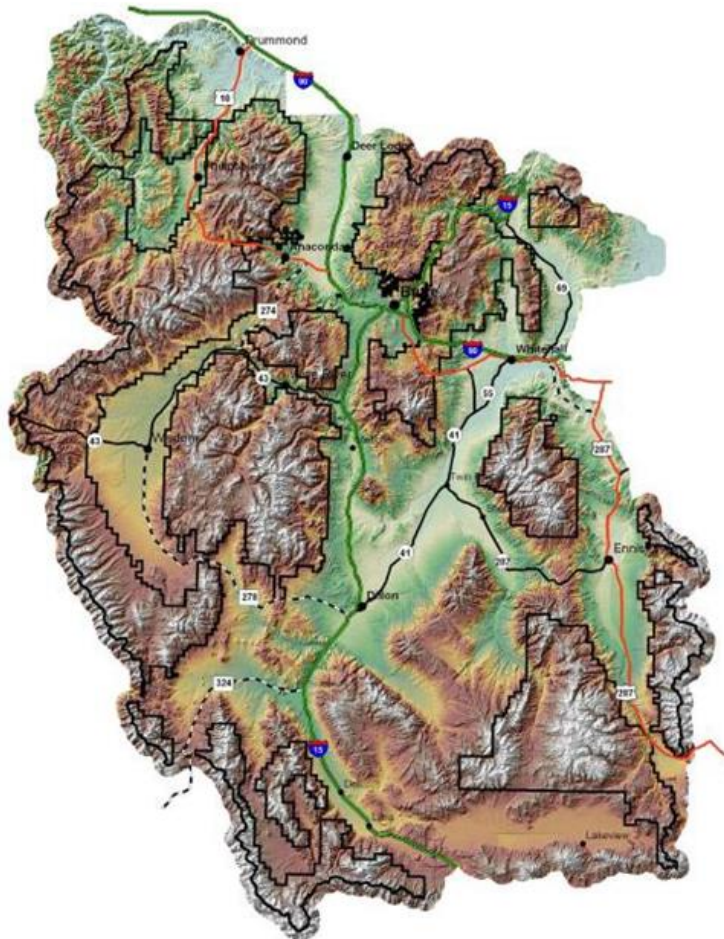


# Draft Record of Decision

For the

## Beaverhead-Deerlodge National Forest Land and Resource Management Plan to Comply with the District Court Order (Winter Motorized Use)

Beaverhead, Deer Lodge, Granite, Jefferson, Madison,  
Powell, Silver Bow, and Gallatin Counties, Montana



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## **DRAFT RECORD OF DECISION**

**for the**

### **Beaverhead-Deerlodge National Forest Land and Resource Management Plan to Comply with the District Court Order (Winter Motorized Use)**

## **DECISION**

In response to a court order, and based on the analysis in the Final Supplemental Environmental Impact Statement for the Beaverhead-Deerlodge National Forest land and Resource Management Plan to Comply with the District Court Order (Winter Motorized Use) and public comment, and applying the minimization criteria to the decision, I am reaffirming the decision of the 2009 Revised Forest Plan Record of Decision selecting Alternative 6 Modified. My decision adopts the winter motorized and winter non-motorized allocations of the 2009 Revised Forest Plan Record of Decision.

This supplemental environmental impact statement has demonstrated that application of the 2005 Travel Management Rule minimization criteria on areas open to motorized winter use supports the decision to affirm Alternative 6 Modified for winter motorized and non-motorized allocations at the Landscape scale. My decision does not result in a change to the existing winter motorized and winter non-motorized allocations of the 2009 Forest Plan. I have determined that an amendment to Forest Plan direction is not needed.

My decision considers and applies the analysis and data in the 2009 Forest Plan FEIS and the *Final Supplemental Environmental Impact Statement for the Beaverhead-Deerlodge National Forest land and Resource Management Plan to Comply with the District Court Order (Winter Motorized Use)* (hereinafter FSEIS) regarding impacts of over-snow vehicles (OSV<sup>1</sup>) use on big game winter range and resources subject to the minimization criteria.

There is nothing in this decision that precludes additional closure of areas to OSV use should future evidence demonstrate the need. The monitoring and closure ability under both the 2009 Forest Plan and the 2005 Travel Management Rule (TMR) designation process gives the tools necessary to deal with future conditions and use (36 CFR. § 212.50 et. seq).

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<sup>1</sup> An Over-Snow Vehicle (OSV) is defined in Forest Service regulations at 36 CFR. § 212.1 as "A motor vehicle that is designed for use over snow and that runs on a track or tracks and/or a ski or skis, while in use over snow." A snowmobile is an OSV.

## Decision Process

With this decision, I applied the analyses and data in designating OSV areas and routes with the intent of minimizing effects of OSV use on relevant criteria found at 36 CFR §212.55(b); while taking into consideration needs for recreational use, access and the multiple-use mandates of the Forest Service. Although the 2009 FEIS did not explicitly reference the Travel Management Rule, many of the same considerations were part of the original analysis and are evident in the design of Alternative 6 Modified.

The 2009 Forest Plan provides reasonable protections that will maintain or enhance these various resource values and represents the Forest Service's best efforts at resolving the competing interests of winter recreation opportunities and other Forest Plan goals.

It is based on a 6-year planning process and considered over 32,000 comments and discussions with interest groups including both motorized and non-motorized communities, wildlife and fisheries advocates, neighboring landowners, and other local, state and federal agencies. The 2009 Forest Plan ROD and its decision rationale are incorporated into this draft ROD.

## Decision Forest-wide

Affirmation of the 2009 Forest Plan ROD, implements Modified Alternative 6. This alternative allocates 1,336,553 acres (40%) of the Beaverhead-Deerlodge National Forest (BDNF) to non-motorized winter recreation (closed to OSVs) and approximately 2,953,396 acres (60%) to motorized winter recreation (remains open for OSV use). This alternative closes an additional 813,016 acres of the BDNF to OSV use from the existing condition prior to Forest Plan Revision.

All Wilderness Areas and all Recommended Wilderness Areas are in non-motorized winter use allocations. My decision, reaffirming Alternative 6 Modified, in designating areas for OSV use includes the OSV use of routes (groomed or ungroomed) in these areas. In addition, my decision includes the additional designations of three OSV routes on the Forest that occur in areas otherwise closed to winter motorized use. The three designated OSV routes are:

- Snowmobile use through the Electric Peak area (Trail #7065) near Thunderbolt Creek and Cottonwood Lake (Jefferson County, Montana).
- Snowmobile use through the non-motorized area on the Road #056 corridor in the vicinity of Antelope Basin (Beaverhead County, Montana), and
- Snowmobile use on the road to Antone Cabin in the southwest portion of the Snowcrest Mountains (Beaverhead County, Montana).

## Decision by Landscape

The description of the decision by Landscape below provides only the overall summary of acres in winter motorized and non-motorized travel compared to the existing condition at the time of Forest Plan Revision. The existing condition at the time of revision of winter motorized use was created over time across the forest and was set forth as part of implementing the 1986/1987 Forest Plans. Table 1 shows how Alternative 6 Modified decreased the acres open to OSV use in

each Landscape and, correspondingly, increased acres closed to OSVs. Other sections in this draft ROD discuss the changes incorporated into Alternative 6 Modified in terms of the application of the minimization criteria and consideration of specific resource effects.

**Table 1: Decision acres open/closed to OSV by Landscape**

<b>Landscape</b>	<b>Alt 6 Modified Open to OSVs</b>	<b>Existing Condition Prior to Plan Revision Open to OSVs</b>	<b>Alt 6 Modified Closed to OSVs</b>	<b>Existing Condition Prior to Plan Revision Closed to OSVs</b>
Big Hole	353,772 acres (67%)	449,577 acres (85%)	177,587 acres (33%)	81,732 acres (15%)
Boulder River	132,448 acres (65%)	182,122 acres (90%)	70,844 acres (35%)	21,170 acres (10%)
Clark Fork Flint	306,554 acres (83%)	339,487 acres (92%)	62,708 acres (17%)	29,765 acres (8%)
Gravelly	236,963 acres (50%)	377,935 acres (80%)	232,423 acres (50%)	91,451 acres (20%)
Jefferson River	90,190 acres (47%)	190,565 acres (99.9%)	100,423 acres (53%)	48 acres (0.1%)
Lima Tendoy	202,401 acres (55%)	291,956 acres (79%)	165,123 acres (45%).	75,568 acres (21%)
Madison	2,730 acres (2%)	13,192 acres (11%)	120,264 acres (98%)	109,802 acres (89%)
Pioneer	424,492 acres (74%)	531,917 acres (93%)	149,633 acres (26%)	42,208 acres (7%)
Tobacco Root	83,851 acres (48%)	164,638 acres (95%)	90,125 acres (52%)	9,338 acres (5%)
Upper Clark Fork	55,542 acres (67%)	74,274 acres (89%)	27,776 acres (33%)	9,044 acres (11%)
Upper Rock Creek	133,571 acres (49%)	207,874 acres (76%)	139,647 acres (51%)	65,344 acres (24%)

My decision does not result in a change to the existing winter motorized and winter non-motorized allocations of the 2009 Forest Plan. I have determined that an amendment to Forest Plan direction is not needed. I am, however, undertaking additional site-specific actions and continuing several existing actions, policies, and education programs to address localized concerns related to over snow vehicle (OSV) use. These actions are within my normal management authority.

- Implement an educational signing plan (beginning with the 2016/2017 winter season) to reduce effects to moose wintering in willow bottoms along the West Fork of the Madison (Gravelly Landscape).

- Continue to implement a multipronged approach towards effective and positive reductions of illegal incursions into the Centennial Recommended Wilderness Area (RWA)<sup>2</sup> in the Gravelly Landscape, including:
  - Partner in expanded public education and community outreach efforts including placing posters, signs, and brochures at area businesses and around communities, signing at parking lot trailheads and along snowmobile travel routes and continued public service radio spots.
  - Utilize volunteers help maintain signs along the motorized – non-motorized boundary.
  - Continue efforts to pool funding and equipment resources to have snow rangers in place to patrol the Centennial RWA boundary and follow up on citations.
  - The Forest Service and partners will continue to monitor for incursions into the Mt. Jefferson Recommended Wilderness Area.
- The Forest Service will continue to support and encourage agreement between the Bitterroot Cross-County Ski Club and the Bitterroot Ridge Runners to keep motorized use off groomed cross-county ski trails.
- As we receive reports of illegal OSV use in non-motorized allocations, we will inform law enforcement. For example, reports of illegal OSV use around Granite Lake (Tobacco Root Landscape) have been reported to law enforcement.
- The Forest Service will continue to monitor the use of the Chief Joseph Pass area in terms of conflict and undertake adaptive management in the form of education and work with all user groups to avoid conflict.

The monitoring and closure ability under the travel management rule designation process gives the BDNF the tools necessary to deal with future conditions and use (36 CFR § 212.50 et. seq).

## MANAGEMENT OBJECTIVE AND PURPOSE AND NEED

The purpose of this analysis and decision is to comply with the August 27, 2015, US District Court for the District of Montana Order which compelled the forest to “properly disclose the information underlying its analysis of snowmobile impacts on big game wildlife” and “adequately appl[y] the minimization criteria in the [2005 Travel Management Rule]”.

The FSEIS discloses and evaluates information underlying the Forest Plan analysis of snowmobile impacts on big game wildlife. This decision applies the minimization criteria of the 2005 Travel Management Rule for areas and routes open to OSVs during the winter recreation season (December 2 through May 15) in the 2009 Forest Plan FEIS. In order to address the issue at a more granular level than forest-wide, the FSEIS applies those criteria at the Landscape scale and at the site-specific scale where specific concerns have been raised.

The minimization criteria are identified in the final rule for *Travel Management; Designated Routes and Areas for Motor Vehicle Use* (commonly referred to as the 2005 Travel Management

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<sup>2</sup> The Centennial RWA Management Area (MA) along with the Mt. Jefferson MA (Forest Plan, pg. 132-133 and 146-147) are frequently collectively referred to as the Mt. Jefferson area

Rule or TMR) which implements provisions of EO 11644 and 11989 regarding off-road use of motor vehicles on Federal lands. Regulations implementing this rule are found at 36 CFR §212. The portion of the rule pertaining to OSV use is Subpart C which was updated in January 2015. The “minimization criteria” referenced in the 2015 Circuit Court Opinion and District Court Order are found at 36 CFR §212.55(b) *Specific criteria for designation of trails and areas*, and specify:

“...in designating National Forest System trails and areas on National Forest System lands, the responsible official shall consider effects on the following with the objective of minimizing:

- 1) Damage to soil, watershed, vegetation, and other forest resources;
- 2) Harassment of wildlife and significant disruption of wildlife habitats;
- 3) Conflicts between motor vehicle use and existing or proposed recreation uses of National Forest System lands or neighboring Federal lands; and
- 4) Conflicts among different classes of motor vehicle uses of National Forest System lands or neighboring Federal lands.

In addition, the responsible official shall consider:

- 5) Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors.”

## **Application of the Minimization Criteria**

I have considered the potential effects from OSV use on big game wildlife and the resources cited in the minimization criteria, as disclosed in the FSEIS. I evaluated the applicable resource data, as discussed in detail below, and applied the minimization criteria to reach my decision with the intent of minimizing effects from OSV use to each of the criteria resources. I applied the criteria forest-wide, by landscape, and to site-specific areas where warranted.

### **Damage to soil, watershed, vegetation and other forest resources**

*Soils, Watershed and Vegetation:*

OSV use has been a popular winter recreation activity on the BDNF since the mid-1960s.

Potential impacts from repetitive low snow condition OSV use over a 50 year period is not readily apparent on any of the Landscapes.

For the analysis, ten agency resource specialists were asked to locate where OSV use, especially during low snow condition, may have detrimentally affected soil, watershed and vegetation resources. They stated they have not observed these effects at a detrimental level and were unable to identify any damage to the resources in site-specific areas after numerous years of observations (FSEIS, pg. 113). Specialists cited that combinations of availability of deep snow, terrain and vegetation and infrequent OSV use in low snow conditions on the BDNF has resulted in few observable effects to soil, watershed, vegetation and other forest resources on the BDNF. These specialists have a combined total exceeding 200 years of experience observing on-the-ground conditions on the BDNF. In addition, although several comment letters assume

detrimental effects are occurring, more than 200 public reviewers did not identify specific locations where detrimental impacts are occurring.

If resources specialists or forest users begin observing impacts from OSV use during low snow conditions, site specific monitoring, including inventory and evaluation of those effects would be appropriate, at that time and at that location. Further, if and when impacts are imminent or occur, I have the necessary authority and tools to address those situations quickly and at the appropriate scale (36 CFR § 212.52(b)).

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in every Landscape from conditions existing at the time of Forest Plan Revision.

#### *Water Quality*

OSV use is not adversely affecting water quality on the BDNF. As disclosed in the FSEIS, no evidence could be found to implicate water quality as a relevant issue at this time. In the winter, water crossings by OSVs are occurring in frozen conditions. On the BDNF, open water, when it exists, appears to be avoided by OSV users. Further, most used OSV routes on the BDNF largely follow existing roads and trails where water crossings are designed to minimize impacts.

Water quality has also not been an issue in Yellowstone National Park, our neighbor to the southeast, where OSV use is far greater. Studies done in Yellowstone National Park have shown little to no measurable negative effects from OSV use adjacent to water bodies at much higher use levels than are present across the BDNF (FSEIS, pg. 114, 116-117).

Based on the available information, I also find no reason for concern in compliance with the Clean Water Act, which sets the threshold of a statistically measureable increase in the associated TMDL (Total Maximum Daily Load) a stream is listed for. Furthermore, the 303d list impairments range from sediment to metals but rarely include things like hydrocarbons or other potential toxins that could be associated with OSV emissions. Current TMDLs for streams located on the BDNF have never identified OSVs as a probable cause for any impairment or discussed OSV travel as contributing to any impairment, which is supported by the lack of evidence for impacts to soils.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in every Landscape from conditions existing at the time of Forest Plan Revision.

#### *Air Quality*

The FSEIS discloses, like the 2009 FEIS analysis, that overall emissions from OSV use are unlikely to exceed national Ambient Air Quality or Montana Air Quality Standards since these standards have not been exceeded in the West Yellowstone area directly southeast of the forest where



OSV use is much heavier. This supports the goal of the Revised Forest Plan that air quality is maintained within standards set by federal and state agencies.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in every Landscape from conditions existing at the time of Forest Plan Revision.

### **Harassment of Wildlife and Significant Disruption of Wildlife Habitat**

#### *Big Game (Elk, Moose, Mule Deer, White-tailed Deer, Antelope)*

The FSEIS presents additional information on big game winter range and snowmobiling. The consideration of the dynamic nature of big game winter range based on annual snow conditions, the topography of the forest and the unlikely coincidence of snowmobiling and big game winter range occurring at the same time and place (e.g. snowmobiling generally occurs in deep snow conditions which are poor conditions for big game winter range) all indicate minimal Landscape level potential for impacts from OSV use. Winter range carrying capacity on the BDNF is not high since the majority of big game winter range is on the lower elevation, private lands (2009 FEIS, pg. 493).

**Table 2: Alternative 6 Modified allocations big game winter range – closed to OSV use.**

<b>Landscape</b>	<b>Acres/Percentage of Big Game Winter Range Closed in Alternative 6 Modified</b>	<b>Approximate Change in Big Game Winter Range acres closed to OSV from 1986/1987 Forest Plans</b>
Big Hole	16,376/9%	+ 8,500 acres
Boulder	46,071/34%	+32,000 acres
Clark Fork Flint	40,542/17%	+17,400 acres
Gravelly	173,318/50%	+101,800 acres
Jefferson	46,629/42%	+46,600 acres
Lima Tendoy	119,134/47%	+70,000 acres
Madison	91,391/100% all acres closed	+8,529 acres
Pioneer	68,192/23%	+26,600 acres
Tobacco Root	45,851/45%	+43,400 acres
Upper Clark Fork	22,397/34%	+15,500 acres
Upper Rock Creek	45,472/41%	+18,600 acres

#### *Elk*

The Boulder Landscape is the only landscape where Montana Fish, Wildlife and Parks (MFWP) biologists identified OSV use as an issue for wintering elk (FSEIS, pg. 57-58). MFWP raised this issue during development of the 2009 Forest Plan FEIS. Winter range use by elk in the Boulder Landscape is quite different from almost all other landscapes on the Forest (FSEIS, pg. 69). Alternative 6 Modified was developed to specifically address MFWP's concerns (2009 FEIS, pg. 29). Of all the alternatives, Alternative 6 Modified closes the most winter range within Boulder

Landscape to winter motorized use. Currently, all three related Hunt Districts meet or exceed MFWP elk population objectives.

Across the BDNF, Alternative 6 Modified decreases acres of general big game winter range open to winter motorized travel to approximately 1,218,142 acres or 63% of the winter range leaving approximately 728,380 acres or 37% of the winter range in a non-motorized allocation. These percentages portray big game winter range on National Forest System lands only, not across the entire big game winter range. Only 30% of the big game winter range is on lands administered by the BDNF, with the remaining 70% is in other land ownership.

#### *Moose*

MFWP biologists identified two site-specific areas where extensive OSV use may affect wintering moose. These localized OSV effects to moose are in riparian communities in the Boulder and Gravelly Landscapes, specifically the Boulder River and the West Fork of the Madison River.

*Boulder Landscape:* Alternative 6 Modified closes more of Boulder Landscape to OSV use than any other alternative. The local MFWP biologist for the Boulder River area stated that during the 2015-2016 winter range aerial surveys, extensive snowmobile use in willow communities along the Boulder River was not noted (Pers. com. MFWP 2016, FSEIS, pg. 70). The biologist did not recommend any additional changes at this time. The monitoring and closure ability under both the 2009 Forest Plan and the 2005 TMR designation process gives the tools necessary to deal with future conditions should use patterns change (36 CFR § 212.50 et. seq).

*Gravelly Landscape:* The disruption of moose within this winter range by OSVs in the West Fork of the Madison River area was identified as a concern by the local MFWP biologist (FSEIS, pg. 79). The local MFWP biologist recommended an education plan that involves signing similar to those at the Konda Trailhead in the Boulder Landscape. Personal experience of that biologist with education plans at the Konda Trailhead in the Boulder Landscape indicate that educational efforts to encourage OSV riders to stay out of the specific willow bottoms can change rider behavior across entire ecosystems. My decision includes implementation of the recommended signing plan (beginning with the 2016/2017 winter season) to limit disruption of moose wintering in willow bottoms along the West Fork of the Madison and to educate OSV riders of the importance of avoiding similar areas elsewhere.

#### *Mule Deer, White-tailed Deer, Antelope*

There were no instances on any Landscape or site specific area where MFWP biologists identified harassment or significant habitat disruption of mule deer, whitetail deer, or antelope (Pers. com. MFWP 2016, FSEIS pg. 57-58).

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in every Landscape from conditions existing at the time of Forest Plan Revision. (Table 24, FSEIS pg. 55).

*Bighorn Sheep*

There were no instances on any Landscape or site specific area where MFWP biologists identified harassment or significant disruption of bighorn sheep habitat/populations as an issue from OSV travel (Pers. com. MFWP 2016, FSEIS, pg. 54).

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified decreased OSV open acres in those Landscapes where bighorn sheep winter range areas were open to OSV use (Table 25, FSEIS pg. 56).

*Mountain Goats*

There were no instances on any Landscape or site specific area where MFWP biologists identified harassment or significant disruption of mountain goat habitat/populations as an issue from OSV travel (Pers. com. MFWP 2016, FSEIS pg. 54).

Although not identified as a serious concern, MFWP biologists stated that although unlikely, mountain goat herds in the Clark Fork Flint, Pioneer and the Upper Rock Creek Landscape could potentially be affected from intermittent OSV travel (Pers. com. MFWP 2016). However, MFWP biologists identified no concern regarding impacts from these potential effects and identified no recommended measures needed to protect mountain goats. As such, FSEIS analysis discusses although there could be potential for effects to individuals, there is no evidence of negative effects to mountain goat populations from OSV travel. As a result, there is no recommendation from local MFWP biologists to take additional action to protect mountain goat winter habitat.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in those Landscapes (except the Pioneer Landscape) with mountain goat winter range from conditions existing at the time of Forest Plan Revision.

*Grizzly Bears*

The FEIS analysis focuses primarily on the potential effects of OSV use to grizzly bears (particularly sows with cubs) as they leave their dens in the spring. Connectivity is not a primary issue with OSV use because grizzly bears do not travel substantially during that the springtime. The US Fish and Wildlife Service (USFWS) Forest Plan consultation stated that, "...spring snowmobiling areas and spring grizzly bear habitat are almost mutually exclusive in that the areas that would be suitable for spring snowmobiling (i.e. more snowpack) would not typically overlap with spring grizzly bear habitats (i.e. less snowpack in areas of early green-up)."

The 2009 Forest Plan Biological Opinion identifies potential interaction between OSV use and females and cubs is most likely to occur between the third week of March and May 15<sup>th</sup>. Such interaction would be limited due to the low number of denning bears and the abundant

amount of denning habitat on the BDNF. The potential for effects is further reduced by closing OSV travel after May 15. In conclusion the USFWS Biological Opinion states, "... the Service does not expect impacts to spring habitat and foraging grizzly bears to rise to the magnitude that would injure grizzly bears" (USFWS, 2013b). The USFWS stated in the Biological Opinion that they do not expect impacts to denning grizzly bears (outside of the emergence period) or to spring habitat and foraging grizzly bears to rise to the magnitude that would adversely affect grizzly bears (USFWS 2013). The USFWS based its conclusion, in terms of winter motorized use, on the fact that although exact numbers of females and cubs denning on the Forest is unknown at this time, there are "...likely very few to date and that the amount of denning habitat, in comparison, is abundant." (USFWS, 2013) Additionally, it was noted that the same conditions that lead to bear emergence lead to poor quality snow for snowmobiling (USFWS 2013). There was no requirement from USFWS to further reduce the OSV travel in spring grizzly bear habitat.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in those Landscapes with grizzly bear denning habitat from existing condition at the time of Forest Plan Revision (Table 28, FSEIS pg. 124-125).

It is worth reiterating that minimization of effects to grizzly bears from OSV travel on the BDNF is not limited to the Greater Yellowstone Ecosystem grizzly bear recovery zone but instead is distributed across each Landscape. This occurs through the reduction of denning habitat open to OSV use as well as closing all Landscapes to OSV use from May 16 through December 1, as stated in the Biological Opinion.

Again the alternatives demonstrate various minimization actions; all beyond those that existed prior to Forest Plan Revision. Alternative 6 Modified closes 218,668 acres (45%) of the modeled denning habitat to OSV use (closing an additional 134,244 acres of grizzly bear modeled denning from the existing condition).

Please refer to additional details, by Landscape, for the analysis of effects to grizzly bears in the FSEIS and the additional grizzly bear modeled denning habitat acres closed to OSV use by Landscape.

#### *Canada Lynx*

The BDNF is identified as unoccupied Canada lynx habitat under the 2007 Northern Rockies Lynx Management Direction (NRLMD). There is no designated critical habitat for the species on the BDNF. The 2009 Forest Plan FEIS effects for Canada lynx section discloses that Alternative 1, the No Action, was included as part of the baseline analysis for the Lynx Conservation Assessment Strategy (2000) and the subsequent NRLMD.

In its consultation with the Forest Service on the NRLMD, the USFWS did not identify any restrictions necessary for dispersed over-the-snow winter recreation and provides for guidance on expansion of designated OSV routes and designated play areas. None of the action alternatives increase designated routes or designated play areas from the existing condition

prior to Forest Plan Revision. Compliance with NRLMD direction in all alternatives across all Landscapes minimizes potential effects to Canada lynx.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in every Landscape from conditions existing at the time of Forest Plan Revision (Tables 1-11, FSEIS pg. 20-23).

### *Wolverine*

While human disturbance may in general affect wolverine distribution, the highest potential for negative disturbance impacts is theorized to be disturbance at den sites. Effects of OSV travel were analyzed originally based on the Heinemeyer et al. (2001) denning model. Additional research on wolverines has emerged since the 2009 Forest Plan was finalized and has been updated in the FSEIS to include an analysis of denning habitat based on Inman et al. (2013). Winter motorized travel would be allowed within some of the wolverine denning habitat utilizing both models across the BDNF and may cause disturbance effects to individual wolverines. Although this is the case, the USFWS Proposed Rule acknowledged that while dispersed recreation may affect wolverines, significant effects to wolverines from winter recreation remain to be demonstrated scientifically (USFWS 2013d). The Proposed Rule also found that preliminary results from an ongoing study by Heinemeyer et al. on the potential impacts of winter recreation on wolverines in central Idaho indicate that wolverines are present and reproducing in this area in spite of heavy recreational use, including a developed ski area; dispersed winter and summer recreation; and dispersed snowmobile use (USDI Fish and Wildlife Service, 2013d).

In 2014, Region 1 prepared a biological assessment on the effects of Forest Plan activities, including OSV travel, on the wolverine. Although conferencing was not required, the Region requested concurrence from USFWS. The Region determined that activities as described, including OSV travel, “will not jeopardize the continued existence of the DPS of the North American wolverine.” (USFS 2014). In May 2014, the USFWS concurred with the Region’s finding for all forests in the Northern Region, including the BDNF (USFWS 2014). Based on the above information, although there could be small localized effects, the proposed OSV travel on the BDNF would not jeopardize the wolverine population. Although there is no specific population information for the Mt. Jefferson area, Alt 6 Modified closed the known historic denning area to OSV use.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified. The implementation of Alternative 6 Modified substantially decreased OSV open acres in those Landscapes that have modeled denning habitat from conditions existing at the time of Forest Plan Revision. There is an increase of approximately 352,500 acres of wolverine denning habitat closed to OSV use under this Alternative; most in the Big Hole, Pioneer, Tobacco Root, and Clark Fork Flint Landscapes. (Table 29, FSEIS pg. 158).

**Conflicts between motor vehicle use and existing or proposed recreations uses of National Forest System lands or neighboring Federal lands**

This section reiterates the work done towards resolving conflict between motorized and non-motorized winter use in the 2009 Forest Plan FEIS. Additional information has been addressed in this FSEIS that supports the substantive efforts that continue to occur in specific locations where people have competing uses.

The 2009 FEIS discusses one area of historic recreation use conflict, the Mt. Jefferson/Hellroaring area within the Gravelly Landscape; and one area of potential recreation use conflict near Chief Joseph Pass within the Big Hole Landscape.

*Mt. Jefferson/Hellroaring Area within the Gravelly Landscape:*

The 2009 decision to designate 2,100 acres of the Mt. Jefferson/Hellroaring area<sup>3</sup> to Recommended Wilderness while keeping approximately 2,400 acres open to OSV use generated significant interest. During the revision process, approximately 8,000 comments were received both in favor of winter motorized use and against it. This interest influenced the creation of Alternative 6 Modified.

In the 2009 ROD, the Forest Service agreed to manage the area consistent with adjoining uses. Wilderness recommendations made by the Bureau of Land Management (BLM) in the 1990 Centennial Mountains Wilderness Suitability Study led us to allocate the adjacent BDNF area as recommended wilderness. While the southern portion of the area, of approximately 2,400 acres adjoining the Caribou-Targhee National Forest area open to OSVs, remains open to OSVs. The BDNF acknowledged that management of the area would represent a challenge and committed to monitoring compliance and evaluating the decision (2009 ROD, pg. 21).

Winter use in the Mt. Jefferson area has been monitored every year since 2001, documenting motorized intrusions into the closed areas each year (Table 3). Montana Wilderness Association, Greater Yellowstone Coalition, and Winter Wildlands Alliance have all expressed concern over the impacts to primitive recreation, solitude and wilderness suitability for the area within recommended wilderness designation. In addition, back country skiing opportunities associated with the ski hut outfitter may be impacted by illegal OSV incursions into the BDNF closed area and BLM Wilderness Study Area.

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<sup>3</sup> The 'Mt. Jefferson/Hellroaring Area' is defined as the two management areas south (uphill ) of Red-Rock road, totaling 4,500 acres

**Table 3: OSV incursions into Mt. Jefferson closure area (FSEIS, pg.188).**

<b>Year</b>	<b>Cole Creek Area</b>	<b>Hellroaring Closure (Forest Service RWA)</b>	<b>BLM – Wilderness Study Area</b>	<b>TOTAL</b>
<b>2009</b>	0	12	19	31
<b>2010</b>	6	18	14	38
<b>2011</b>	0	21	3	24
<b>2012</b>	0	21	5	26
<b>2013</b>	10	51	11	72
<b>2014</b>	0	39	0	39
<b>2015*</b>	Not Monitored	10 (Approx.)	0	10
<b>2016**</b>	Not monitored	10 (Approx.)	2	12

\*Limited Monitoring

\*\*All 2016 monitoring not yet reported.

Monitoring indicates winter motorized use in the Hellroaring drainage is occurring in violation of the winter non-motorized allocation in the 2009 Forest Plan. Without consistent efforts to reduce incursions into the recommended wilderness area, illegal use risks degrading existing wilderness characteristics.

The BDNF is undertaking additional efforts to reduce illegal use. Annually local community leaders and stakeholders in Montana and Idaho convene with the Forest to assess the situation. There is significant interest and partnerships working with the agency to develop and continue implementing a multipronged approach to effect a positive change in incursions into the RWA. After applying this new strategy this last winter, I am encouraged by the initial outcomes. I realize one season does not make a trend, but the results are promising.

Additional efforts to minimize user conflict will continue by partnering with Fremont County and the Idaho State Snowmobile Association in expanding public education efforts and community outreach (such as placing posters, signs, and brochures at area businesses and around communities and signing at parking lot trailheads and along snowmobile travel routes). Individuals renting snow machines in the area are asked to read and sign a form acknowledging restrictions associated with the Mt. Jefferson area. Public service radio spots are aired with information about Mt. Jefferson. Volunteers help maintain signs along the motorized – non-motorized boundary. Madison and Ashton-Island Park Ranger Districts, Fremont County Idaho, Idaho, Montana State Snowmobile Associations, and snowmobile volunteers of Fremont County have pooled funding and equipment resources to be able to have snow rangers in place to patrol the Mt. Jefferson boundary. This includes a Collection Agreement between Fremont County, Idaho and the BDNF. Funding has been secured to hire snow rangers for the 2015/2016 and 2016/2017 seasons. A local Arctic Cat dealer is providing the use of two snowmobiles. Housing for snow rangers is available at the Ashton-Island Park Ranger District. The BDNF and

partners will continue pooling funding and equipment resources to have snow rangers in place to patrol the Mt. Jefferson boundary and follow up on citations.

Conflict between recreation user groups in the Mt. Jefferson/Hellroaring area are historic and continue to occur. The selection of an alternative that would close the entire 4,500 acre area to OSV use, has been proffered as a potential solution. Since the incursions occurring are in violation of our 2009 Forest Plan and illegal, I see little evidence that changing the designation of the area would promote legal use and lessen conflict. There is the potential that without the continued support of legal users and the OSV use groups, there would have been and may be more incursions into recommended wilderness. Also, closing this area to snowmobiling could increase crowding or displacement of those visitors and create issues in other areas (2009 FEIS, pg. 380). Alternative 6 Modified closed 2,100 acres of the area to OSV use.

#### *Chief Joseph Pass within the Big Hole Landscape*

The FSEIS discusses that Chief Joseph Pass is an area of potential conflict between cross-country skiing and snowmobile use. As described in the FSEIS, efforts have been undertaken to avoid this potential conflict. Chief Joseph Pass is an example where cooperation has resulted in precluding use conflict. The BDNF will continue supporting and encouraging agreement between the Bitterroot Cross-County Ski Club and the Bitterroot Ridge Runners to keep motorized use off groomed cross-county ski trails. The BDNF will continue monitoring use of the area in terms of conflict and undertake adaptive management in the form of education and working with all user groups to avoid conflict.

I find Alternative 6 Modified made substantial efforts to address both user groups, minimize user conflict impacts by substantially limiting the amount of area open to OSV use, from the conditions existing prior to Forest Plan Revision (the prior plan allocated the entire area as open to OSV use); while also taking into consideration the Forest Service's multiple use mandate. In addition, I am taking action to reduce further the illegal use through additional snow ranger patrols, partnerships, signing and education.

### **Conflicts among different classes of motor vehicle uses of National Forest System lands or neighboring Federal lands.**

There is very little use by any other motorized vehicles during the winter season in areas available for snowmobile use. Snowmobiles are the primary motor vehicles in use during winter with appropriate snow conditions.

The FEIS discusses the potential for conflict among different classes of motor vehicle use in winter could occur with early spring ATV use on roads<sup>4</sup> designated for wheeled motor vehicle use yearlong and/or tracked<sup>5</sup> OHVs. Tracked OHV use, although limited, is growing in the Jefferson and Upper Clark Fork Landscapes, especially in low snow areas. Full-sized vehicles also

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<sup>4</sup> 36 CFR § 212.55(b) applies to designation of trails and areas, not roads.

<sup>5</sup> A tracked OHV is an off road/off highway recreation vehicle (ATV or UTV) which has been converted to a tracked vehicle by replacing its wheels with either multiple tracks or a rear track/front ski combination



occasionally use open roads when snow levels are low. Legal ATV and full-sized vehicle use could impact OSV use dependent on snow conditions. However, this conflict is result of road designation for wheeled vehicles, not area or trail OSV designation considered here.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified.

**Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors.**

All areas on the BDNF are rural in nature and sparsely populated ranging from 1.6 persons per square mile to 47 persons per square mile. There are no densely populated areas affected by winter motor vehicle use on the BDNF. As such, in terms of both noise and air quality the BDNF lacks the concentrated OSV use to cause compatibility issues with existing conditions in populated areas.

*Noise*

In the FEIS, we considered and disclosed the study of potential impacts of noise based on acoustic modeling in Yellowstone National Park due to the close proximity and similar weather, terrain and vegetation patterns that exist on the BDNF. The FSEIS discusses noise impacts both in terms the level of sound impacts based on acoustic modeling in Yellowstone National Park and use conflicts on solitude, natural settings and in the quality of the user's experience.

Additional limits to noise impacts are done through the Forest Service's law enforcement authority to enforce noise standards set by the State of Montana which sets a limitation on machines built after 1975 of 78 dbA measured at 50 feet.

*Air Quality*

The FSEIS discloses that snowmobile emissions include carbon monoxide, oxides of nitrogen, and particulate matter and that conflicts can arise when recreation use occurs alongside non-motorized pursuits, where clean-smelling air is desirable. However, snowmobile emissions monitoring at West Yellowstone indicated no instances where National Ambient Air Quality Standards or Montana Ambient Air Quality Standards were exceeded. OSV areas on the BDNF receive much less use than West Yellowstone, so it is reasonable to expect that there would also be no instances of exceedance on the BDNF. Alternative 6 Modified substantially decreased the acres on the BDNF where OSV is allowed. As such, cumulative impacts on air quality from Alternative 6 Modified would be small, and in general, temporary and localized; all areas of the BDNF currently meet state and federal air quality standards and show no degradation to visibility or other air-quality-related values (FSEIS, pg. 204).

Additional protections incorporate compliance with local, state, and federal air quality regulations to continue to protect air resources on the BDNF and not contribute to air quality degradation to surrounding areas. Desired conditions, objectives, standards, and prescriptions concerning air quality are consistent with legal requirements and are incorporated in Alternative 6 Modified.

Based on the FSEIS analysis, this criteria did not compel change for additional protections beyond those already provided in Alternative 6 Modified.

## **CONCLUSIONS**

I have considered the potential effects from OSV use on big game winter range and the resources cited in the minimization criteria, as disclosed in this FSEIS. I applied the criteria by Landscape, and to site-specific areas where warranted. As I discuss in detail above, the minimization criteria were considered in my decision with the intent of minimizing effects from OSV use to each of the criteria while still taking into consideration travel management needs providing for public recreation and access, and the Forest Service's multiple use mandate.

Alternative 6 Modified provides meaningful protections and continues to represent the best mix of recreational opportunities that fit the land while meeting the myriad of Forest Plan and legal requirements. I have also incorporated additional actions the BDNF is taking to minimize effects in site-specific areas.

## **BACKGROUND**

### **2009 Forest Plan**

In a Record of Decision dated January 14, 2009 (2009 ROD), Regional Forester Thomas Tidwell selected Modified Alternative 6 and approved the 2009 Forest Plan for the BDNF. The 2009 Forest Plan provides broad programmatic management direction for activities on the 3.38 million acre BDNF for the next 10-15 years, including direction on eight revision topics (vegetation, wildlife, aquatic resources, recreation and travel management, fire management, livestock grazing, timber and recommended wilderness). This direction revised previous management direction from the 1986 Beaverhead National Forest Plan and the 1987 Deerlodge National Forest Plan.

The 504-page Forest Plan provides management direction for activities on the 3.38 million acre BDNF and established forest-wide management goals, objectives and standards for 17 specific resources and additional direction specific to 86 management areas. While the 2009 ROD approved the Forest Plan, it did not make site-specific project level decisions; rather direction in the Forest Plan applies to subsequent projects and decisions.

The 2009 Forest Plan, through 86 different management area prescriptions, identified where over snow vehicle (OSV) use is allowable and where it is not allowed. No routes or areas closed to over snow vehicles (OSV) under the prior plans were allocated to winter motorized recreation.

The 2009 ROD describes the rationale for these allocations under Revision Topic #4: Recreation and Travel Management (2009 ROD pgs. 13 – 15). These allocations guide future decisions. Future site-specific decisions may not allow OSV use where the 2009 Forest Plan does not allow it without an amendment. In contrast, while the 2009 Forest Plan allows for OSV use in some

management areas, it does not require it. Subsequent site-specific decisions may prohibit this activity where needed to protect or promote local resource values within the broader multiple-use prescriptions.

As explained in the 2009 ROD (pg. 23), the Forest Plan established desired conditions, standards and allowable uses but did not make site-specific decisions such as closing individual motorized routes in areas recommended for wilderness. In the 2009 ROD, the Regional Forester directed the Forest Supervisor to issue a second ROD, based on the analysis in the 2009 FEIS, making site-specific decisions closing areas and routes to motorized use based on 2009 Forest Plan direction and signing and enforcing those closures.

On February 12, 2010, Forest Supervisor David Myers signed the ROD Enacting Forest Plan Travel Management Direction for Certain Areas of the BDNF (2010 ROD). This 2010 ROD closed those areas to winter motorized travel that the 2009 Forest Plan had allocated to winter non-motorized prescriptions (December 2 through May 15) (FEIS, pg. 366). After signature, 2,043,372 acres of the BDNF remained open to winter motorized use (2010 ROD, pg. 3).

## **Litigation**

On September 7, 2010, Wildlands CPR, Inc., Friends of the Bitterroot, Inc., and Montanans for Quiet Recreation filed a complaint in US District Court for the District of Montana (Case 98:10-cv-00104-DWM) alleging inadequate analysis of the impacts of winter motorized travel when developing the Forest Plan and failure to analyze criteria intended to minimize off-road vehicle impacts.

### **District Court April 2, 2012 Order**

In an Order dated April 2, 2012, the US District Court for the District of Montana found the Forest Service adequately applied the minimization criteria of Executive Order (EO) 11644 for areas open to snowmobile use and adequately analyzed snowmobile impacts to big game. However, the court found “to the extent that specific routes have been designated for snowmobile use”, the Forest Service failed to show it adequately applied the minimization criteria at the route-specific level. The court ordered as follows: “that this case is remanded to the Forest Service for the limited purpose of applying the minimization criteria mandated by EO 11644 at the route specific level where specific snowmobile routes are designated. The Forest Service shall perform this analysis and update the Revised Forest Plan by September 30, 2012”.

In response to the District Court’s remand, the BDNF prepared a Draft and Final Supplemental EIS (2012 FSEIS) evaluating potential effects relevant to applying the minimization criteria established in EO 11644 at the route-specific level where snowmobiles routes were delineated in the 2009 Forest Plan. The 2012 FSEIS provides additional environmental analysis for three routes identified in the 2009 Forest Plan as exceptions within winter, non-motorized areas, specifically:

- Snowmobile use through the Electric Peak area near Thunderbolt Creek and
- Cottonwood Lake (Jefferson County, Montana),
- Snowmobile use through the non-motorized area on the Road #056 corridor in the vicinity of Antelope Basin (Beaverhead County, Montana), and
- Snowmobile use on the road to Antone Cabin in the southwest portion of the Snowcrest Mountains (Beaverhead County, Montana) (2012 FSEIS, pg. 3).

On November 14, 2012, the Regional Forester signed a Determination and Affirmation of Prior Decision in response to the District Court Order. Based on analysis in the 2012 FSEIS, public comment, and applying the minimization criteria to the three routes designated for snowmobile use in the 2009 Forest Plan, the Regional Forester determined a new decision for the Forest Plan was not needed and the routes are appropriately managed as limited exceptions to winter non-motorized allocations (Determination, pg. 3).

### **Appeal to Ninth Circuit and Ninth Circuit Opinion**

Wildlands CPR, Inc., Friends of the Bitterroot, Inc., and Montanans for Quiet Recreation appealed the April 2, 2012, US District Court decision on a number of issues including the District Court's finding that the Forest Service complied with the minimization criteria of EO 11644 for areas open to snowmobile use and adequately disclosed impacts of snowmobile use on big game. In a June 22, 2015 Opinion, the US Court of Appeals affirmed "...the district court's ruling that the EIS sufficiently analyzed the conflicts between snowmobiles and other recreational uses in the Revised Forest Plan. Further, we agree that WildEarth's challenge to the Subpart C exemption in the TMR is not ripe for review".

However, in the same opinion the US Court of Appeals reversed "...the district court's NEPA ruling, in part, because the Forest Service did not properly disclose the information underlying its analysis of snowmobile impacts on big game wildlife in the EIS" and reversed "...the district court's ruling that the Forest Service adequately applied the minimization criteria in the TMR". The Ninth Circuit remanded the case to District Court.

### **District Court August 27, 2015 Order**

Pursuant to the Ninth Circuit's June 22, 2015 Opinion, in an August 27, 2015 Order, the US District Court for the District of Montana ordered the Forest Service to "...properly disclose the information underlying its analysis of snowmobile impacts on big game wildlife' and 'adequately appl[y] the minimization criteria in the [2005 Travel Management Rule]". The District Court further ordered the Forest Service to "...make the proper disclosures, perform the proper analysis, and update the Revised Forest Plan by February 29, 2016. A failure to do so will result in the suspension of the winter travel management portion of the Revised Forest Plan as of March 1, 2016."<sup>6</sup>

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<sup>6</sup> On March 3, 2016, the U.S. District Court issued an Order extending the compliance deadline to October 13, 2016.

## **PUBLIC INVOLVEMENT**

Public involvement for revision of the 2009 Forest Plan is described in the 2009 FEIS (pg. 10), 2009 ROD (pg. 30) and 2010 ROD (pg. 12-13) are summarized here. Revision formally began with publication in the Federal Register of a Notice of Intent (NOI) to prepare an EIS on May 3, 2002. Four public comment opportunities were provided. The DEIS was available for public comment for 120 days ending October 31, 2005 and generated more than 11,000 letters and emails. An FEIS was published in February, 2008. While a comment period was not required for the 2008 FEIS, an additional 90-day comment period was offered due to high public interest and the length of time since release of the DEIS. The FEIS comment period in 2008 generated more than 32,536 letters, phone calls and email. The interdisciplinary team responded to all comments which are publically available on the BDNF web page.

In response to the August 27, 2015 Order from the US District Court for the District of Montana, an NOI to prepare a Supplemental EIS was published in the Federal Register (Vol. 80. No. 176) on September 11, 2015. Pursuant to 40 CFR §1502.9(c)(4), a formal scoping period for the Draft SEIS was not offered. The NOI explained a Draft SEIS was expected to be available for public review and comment in November 2015, and the Draft SEIS comment period would be 90 days from the date the Notice of Availability is published in the Federal Register in accordance with 36 CFR §219.16(a)(2). The Notice of Availability of the Draft SEIS was published December 5, 2015 and the Draft SEIS comment period run until March 3, 2016. The BDNF received 224 letters and email message providing comments.

## **ALTERNATIVES CONSIDERED**

### **Forest Plan Alternatives**

The 2009 Forest Plan FEIS went through extensive analysis and public comment and review in the development of the alternatives, both analyzed in detail and not analyzed further. This FSEIS implements the court direction to apply the TMR minimization criteria on the Forest Plan through application of those criteria to the alternatives in the 2009 Forest Plan FEIS.

#### *Alternative 1*

Alternative 1 is the No Action Alternative which provides a baseline for comparison of the other alternatives as required by the NEPA. “No Action” means management allocations, activities, and management direction described in the 1986 and 1987 Forest Plans continues. Approximately 16% of the BDNF would remain allocated as a non-motorized winter. This includes motorized use in recommended wilderness and wilderness study areas (2009 FEIS, pg. 23-24 and 69).

#### *Alternative 2*

Alternative 2 is the Proposed Action released for public review in 2003. Approximately 22% of the BDNF would be allocated as a non-motorized winter setting. Recommended wilderness would be closed to motorized travel (2009 FEIS, pg. 25 and 70).

*Alternative 3*

Alternative 3 addresses public comments asking the agency to allow natural processes to maintain ecosystems, minimize mechanical vegetation treatment and conserve or restore aquatic health. Approximately 45% of the BDNF would be allocated as a non-motorized winter setting. Recommended wilderness would be closed to motorized travel (2009 FEIS, pg. 25-26 and 71).

*Alternative 4*

Alternative 4 responds to public comments that forest management should directly benefit local economies and utilitarian traditions of families and communities through management emphasis on predictable sustained commodity outputs while allowing a variety of other uses. Approximately 15% of the BDNF would be allocated as a non-motorized winter setting. No acres are identified as recommended wilderness (2009 FEIS, pg. 27 and 72).

*Alternative 5*

Alternative 5 was developed to balance the demand for diverse recreation opportunities, resource protection and commodity outputs. Approximately 37% of the BDNF would be allocated as a non-motorized winter setting.. Recommended wilderness would be closed to motorized travel (2009 FEIS, pg. 27-29 and 73).

*Alternative 6 Modified*

Alternative 6 was developed after review of almost 11,000 comments and over 160 meetings with 90 interested groups and individuals. It reflects an attempt to balance the demand for diverse recreation opportunities, resource protection and commodity outputs and to positively respond to many comments and corrections to the 2005 DEIS (2009 FEIS, pg. 29).

In the 2009 ROD, the Regional Forester selected a modified version of Alternative 6. This FSEIS does not analyze Alternative 6 as described in the 2009 FEIS. Rather, it analyzes Alternative 6 Modified as described in the 2009 ROD because the Forest Plan is based on this alternative and, following signature of the 2010 ROD, winter recreation allocations have been managed as described in Alternative 6 Modified.

Alternative 6 Modified allocates approximately 40% of the BDNF as a non-motorized winter setting. Motorized use is excluded from recommended wilderness (2010 ROD, pg. 6).

**Alternatives and Mitigation Measures Suggested During Public Comment Period**

Numerous recommendations were submitted during the public comment for the Draft SEIS. I considered these recommendations. My complete evaluations are described in the FSEIS (pg. 24-26).

**Environmentally Preferred Alternative**

Regulations implementing NEPA require agencies to specify “the alternative or alternatives which are considered to be the environmentally preferable” (40 CFR § 1505.2(b)). The environmentally preferable alternative causes the least harm to the biological and physical

environments and best protects, preserves, and enhances historical, cultural, and natural resources (36 CFR § 220.3).

The 2009 ROD for the Revised Beaverhead-Deerlodge Forest Plan identified Modified Alternative 6, the selected alternative, as the alternative that best met the goals of Section 101 of NEPA and therefore the environmentally preferable alternative. In context of the purposes of a Forest Plan and the agency's overall multiple use mandate, I concur. In terms of OSV use, Modified Alternative 6, as discussed above, allocated 1,336,553 acres or 40% of the BDNF to non-motorized winter use (closed to OSV use). This increased the acres closed to OSV use on the Forest by 813,016 acres from the previous 1986/1987 Forest Plan allocations. Under the previous Forest Plans, prior to the 2009 Revision, approximately 16% or 526,537 acres of the BDNF was allocated to non-motorized winter use. For the Boulder Landscape, where MFWP had raised specific concerns, Alternative 6 Modified closes more winter range to OSV use than all other alternatives.

## **FINDINGS RELATED TO OTHER LAWS AND REGULATIONS AND POLICY**

This decision does not alter the decision made in the *2009 Revised Forest Plan Record of Decision*. Findings related to other laws and regulations and policy as disclosed in the 2009 Revised Forest Plan ROD (pgs. 32-37) remain applicable and are incorporated into this draft ROD. In addition, the Forest Service makes the following finding:

### **Executive Order 11644 as Amended by Executive Order 11989 and 36 CFR § 212 et seq.**

Executive Orders, as implemented by the 2005 Travel Management rule at 36 CFR § 212 et seq. address the use of off-road vehicles on public lands. The Executive Orders provide that the Forest Service and other federal land management agencies "establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands" (section 1). The Executive Orders direct agencies to designate the "specific areas and trails on public lands on which use the off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted" (section 3). In addition to the requirement for designating where off-road vehicles may or may not be permitted, section 3 of the Executive Orders require "that designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands".

The 2005 Travel Management Rule Subpart C (36 CFR § 212.80 et seq.), implementing the Executive Orders, provides for a system of National Forest System roads, National Forest System trails and areas on National Forest System lands that are designated for over-snow

vehicle (OSV) use. Specifically, 36 CFR § 212.81(d) provides that requirements governing designations of roads, trails and areas for over-snow vehicle use includes applying the designation criteria of 36 CFR § 212.55, including the minimization criteria.

It is my finding that my decision complies with the Executive Orders and the 2005 Travel Management Rule. This draft ROD shows how I have applied the minimization criteria to make my decision and complies with the Executive Orders and 2005 Travel Management Rule.

Management under the integrated 2009 Forest Plan will maintain or move the Forest's various resources towards desired conditions over time. The 2009 Forest Plan provides the necessary direction to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives. As an integrated plan, it provides for the protection of forest resources to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish. Considered in its entirety, I believe the Plan also achieves the purpose of Executive Order 11644 as Amended by Executive Order 11989 in a manner that is feasible, prudent, and reasonable in light of the agency's multiple-use mandate.

In addition, both the 2005 Travel Management Rule and the Executive Orders includes requirements for monitoring the effects of off-road vehicle use and adjusting designations as needed. Further, if and when impacts are imminent or occur, I have the necessary authority and tools to address those situations quickly and at the appropriate scale (36 CFR § 212.52(b)). The BDNF monitors the effects of off-road vehicle use, including OSV use, and when necessary, to further the policy of the regulation or to otherwise further the purposes for which the Forest was established, will undertake closure orders or amend or rescind OSV use designations.

## **Other Disclosures**

### **Best Available Science**

My decision is based upon the consideration of the best available science. This science is thoroughly discussed throughout the FSEIS, in the Response to Comments, and in Project File documentation.

## **PRE-DECISIONAL ADMINISTRATIVE REVIEW (OBJECTION) PROCESS**

Copies of the Final Supplemental Environmental Impact Statement for the Beaverhead-Deerlodge National Forest land and Resource Management Plan to Comply with the District Court Order (Winter Motorized Use) are available for review at the Beaverhead-Deerlodge National Forest Supervisor's Office in Dillon, Montana. Electronic copies are available on the Beaverhead-Deerlodge National Forest's webpage:

<http://www.fs.usda.gov/project/?project=47722>.



The supporting project file is available for review at the Beaverhead-Deerlodge National Forest, Forest Supervisor's Office in Dillon, Montana

The Responsible Official for this decision is Melany Glossa, Forest Supervisor, Beaverhead-Deerlodge National Forest. As required by Forest Service regulations at 36 CFR § 219.53 objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arouse after the opportunity to comment.

The following address should be used for objections sent by regular mail:

Objection Reviewing Officer  
USDA Forest Service, Northern Region  
Building 26 Fort Missoula Road  
Missoula, MT 59804

Objections sent by private carrier or hand delivery must go to:

Objection Reviewing Officer  
USDA Forest Service, Northern Region  
Building 26 Fort Missoula Road  
Missoula, MT 59804

Office hours are Monday through Friday, 8:00 am to 4:30 pm, excluding Federal holidays. Objections can be faxed to the Objection Reviewing Officer at (406) 329-3411. The fax coversheet needs to include a subject line with "2016 OSV Draft ROD Objection" and should specify the number of pages being submitted.

Electronic objections must be submitted to the Objection Reviewing Officer via email to [appeals-northern-regional-office@fs.fed.us](mailto:appeals-northern-regional-office@fs.fed.us), with "2016 OSV Draft ROD Objection" in the subject line. Electronic submissions must be submitted in a format that is readable with optical character recognition software (e.g. Word, PDF, Rich Text) and be searchable. An automated response should confirm your electronic objection has been received.

The objection must meet the content requirements of 36 CFR § 219.54(c), and include the following information: 1) the objector's name and address, with a telephone number or email address, if available; 2) a signature or other verification of authorship upon request (a scanned signature for email may be filed with the objection); 3) when multiple names are listed on an objection, identification of the lead objector (verification of the identity of the lead objector shall be provided upon request); 4) the name of the plan being objected to, the name and title of the responsible official; 5) a statement of the issues and/or the parts of the plan to which the objection applies; (6) a concise statement explaining the objection and suggesting how the proposed plan decision may be improved; and 7) a statement that demonstrates the connection between prior substantive formal comments attributed to the objector and the

content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment. All documents referenced in the objection must be included with the objection (36 CFR § 219.54(b)).

An objection, including attachments, must be filed with the appropriate reviewing officer within 60 calendar days following publication of the legal notice of the objection filing period in the newspaper of record, the Montana Standard. The publication date in the newspaper of record is the exclusive means for calculating the time to file an objection. Objectors should not rely upon dates or timeframe information provided by any other source. It is the objector's responsibility to ensure timely filing of a written objection with the reviewing officer pursuant to 36 CFR § 219.56(a). All objections are available for public inspection during and after the objection process. Responses that do not adhere to these requirements make review of an objection difficult and are conditions under which the reviewing officer may set aside an objection pursuant to 36 CFR § 219.55.

## **CONTACT PERSON**

For more information or to request a copy of the FSEIS and Draft Record of Decision, please contact Jan Bowey, ID Team Leader for Beaverhead-Deerlodge National Forest at (406)683-3900 or by email at [jbowey@fs.fed.us](mailto:jbowey@fs.fed.us) with "2016 OSV Draft ROD" in the subject line.